

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2209.05
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: January 25, 2005
DATE OF REPORT: February 23, 2005
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: April 5, 2005

COMPLAINT ISSUES:

Whether the South Madison School Corporation and the Hancock-South Madison Joint Services violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by allowing the teacher to determine if the student will receive speech therapy, occupational therapy, physical therapy, and visual therapy.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically by failing to provide special transportation.

511 IAC 7-26-13 by failing to ensure that professional and paraprofessional staff serving the student have received specialized in-service training in the area of traumatic brain injury.

FINDINGS OF FACT:

1. The Student has been identified as a student with a traumatic brain injury (TBI), visual impairment, and communication disorder, and determined eligible for special education and related services.
2. The Student's IEP dated December 17, 2003, states that the Student is to receive speech services twice per six-day rotation for 20 minutes a session; visual services one time per week for 30 minutes; occupational therapy for 80 minutes per month (direct); and physical therapy for 40 minutes per month (direct) according to a physician's prescription. The IEP also states, in the Student's behavior plan, that instructional personnel working with the Student may use specified behavioral methods when the Student's behavior warrants such interventions. The classroom teacher is responsible for determining when the Student's behavior may be unsafe (exhibiting aggressive behavior) for the Student to participate in school activities, including speech, visual, occupational, and physical therapies.
3. The School acknowledges that the Student missed at least two speech therapy sessions (December 6, and 13, 2004); three visual therapy sessions (November 8, and December 13, and 15, 2004); and three occupational therapy sessions (November 8, and December 6, and 13, 2004). The Student missed these sessions due to such aggressive behavior that the Student had to be restrained and allowed to de-escalate per the Student's behavior plan. The Student has not had the opportunity to make-up these missed therapy sessions. The Student's IEP was revised on December 15, 2004, and the Student's placement was changed to homebound instruction with the same therapy sessions being provided at school for one time per week for 20 minutes a session.
4. The Student's IEP dated December 17, 2003, also provides for special education transportation as a related service. The IEP states the Student requires a seat belt based on the Student's health needs.

The Student has been diagnosed with a seizure disorder. The IEP is otherwise silent with regard to a behavior plan concerning transportation. The Student was suspended from the bus on December 2, 3, and 4, due to bad behavior. The Student's parent and other family members had to provide transportation to school on these days. The School states that this issue was discussed at the Student's Case Conference Committee (CCC) meeting held on December 15, 2004. However, there is no documentation indicating whether and to what extent this issue was discussed, including the matter of reimbursement for the days the Student was suspended (CCC notes from January 26, 2005, after this complaint was filed, indicate this issue was discussed then). The School acknowledges that the Student's parent and other family members have not been reimbursed at the same rate paid to school employees for transportation at the time this complaint was filed.

5. All classroom personnel were provided with TBI training by the special needs nurse on September 7, 2004. However, the School acknowledges that the Student's homebound teacher had not been provided initial training when homebound services started (January 2005), but was provided TBI training on February 7, 2005, while this complaint was being investigated. However, no documentation was received to determine whether and to what extent this training was provided.

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that the School failed to implement the Student's IEP as written, specifically with regard to the provision of speech, occupational, physical, and visual therapy. School personnel working with the Student implemented the IEP as written with regard to the Student's behavior plan. However, as the School acknowledges, the Student did miss several therapy sessions. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #4 indicates that the School did not fail to implement the Student's IEP as written, specifically, with regard to special education transportation. Finding of Fact #4 indicates that the Student was suspended from the bus on December 2, 3, and 4, 2004, due to behavioral issues. The IEP in effect at that time was silent with regard to a behavior plan concerning transportation. Family members transported the Student to school on these dates and no instructional time was missed due to the bus suspension. Therefore, a violation of 511 IAC 7-27-7(a) is not found with respect to transportation.
3. Finding of Fact #5 indicates that the School failed to provide the Student's homebound teacher with specialized in-service training in the area of TBI from January 5, to February 7, 2005, after this complaint was filed. Therefore, a violation of 511 IAC 7-26-13 is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The South Madison School Corporation and Hancock-South Madison Joint Services shall:

1. Convene the Student's CCC and determine whether and to what extent compensatory services shall be provided the Student with regard to speech, occupational, physical, and visual therapy. Also, the CCC must address how these various therapies will be provided at times when the Student's behavior precludes the Student's attendance, if and when the Student comes back to school after being on homebound. A copy of the CCC Report and revised IEP shall be submitted to the Division no later than March 31, 2005.

2. Submit documentation showing that the Student's homebound teacher was provided specialized in-service training in TBI on February 7, 2005. This documentation shall be submitted to the Division no later than March 31, 2005.